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July 22, 2005

EX PARTE NOTICE

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street S.W.
Washington, D.C. 20554

Re: CC Docket No. 02-33

Dear Ms. Dortch:

On July 21, 2005, Earl Comstock, CEO of CompTel/ALTS, spoke by telephone with Michelle Carey, Chairman Martin's legal advisor regarding the above-captioned wireline broadband Internet access proceeding. Mr. Comstock stressed that the Commission must take affirmative steps to prevent the incumbent local exchange carriers from using this proceeding to deny competitive carriers access to interconnection, network elements, special access services and other facilities and services that are critical to competitive broadband deployment in the residential and business markets. Specifically, Mr. Comstock advocated that the Commission include explicit language in the Order adopted in this proceeding that would make clear that no matter what service the ILECs offer over their network facilities and no matter how those services are classified for regulatory purposes, the underlying transmission facilities remain common carrier facilities subject to Title II of the Communications Act. Absent an affirmative statement by the Commission confirming the common carrier status of the underlying transmission facilities, regulatory uncertainty regarding the nature and extent of third party access to any incumbent LEC underlying facilities that may be used to carry information services will impede the development and availability of competitive alternatives in broadband services.

Should you have any questions relating to this submission, kindly contact the undersigned.

Respectfully submitted,

Mary C. Albert